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**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

AMBER ZVOLENSKY

Plaintiff

VS.

**CITY OF SCRANTON, SCRANTON POLICE
DEPARTMENT and JUSTIN BUTLER,**

Defendants

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

NO.

NOTICE TO DEFEND

**TO: CITY OF SCRANTON, SCRANTON
POLICE DEPARTMENT and
JUSTIN BUTLER**

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after the Complaint and Notice are served by entering a written appearance personally or by an attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

NORTHERN PA LEGAL SERVICES, INC.
SERVICE
300 Scranton Electric Building
507 Linden Street
Scranton, PA 18503
1-(877)953-4250

LAWYER REFERRAL
Lackawanna Bar Association
338 North Washington Avenue
Scranton, PA 18503-1502
(570)969-9161

AMERICAN WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Lackawanna County is required by law to comply with the American with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

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IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

AMBER ZVOLENSKY	:	CIVIL ACTION - LAW
Plaintiff	:	
vs.	:	
CITY OF SCRANTON, SCRANTON POLICE DEPARTMENT and JUSTIN BUTLER	:	JURY TRIAL DEMANDED
Defendants	:	
	:	Docket No.:

COMPLAINT

NOW COMES the Plaintiff Amber Zvolensky, by and through her counsel, The Law Offices of Goffer & Cimini, hereby respectfully avers as follows:

1. The action for declaratory, injunctive and appropriate relief is brought by Plaintiff Amber Zvolensky to redress the intentional violations by Defendants above named and other of the rights secured to her by the laws of the United States of America.

II. JURISDICTION

2. Jurisdiction is conferred upon this court by the Fourth, Fifth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. 1983 which provide original jurisdiction for Plaintiff's claims.
3. Jurisdiction over the state law claims is based on the principles of supplemental jurisdiction, as codified at 28 U.S.C. 1337.
4. The amount in controversy exceeds one hundred and fifty thousand dollars(\$150,000).

III. VENUE

5. All actions complained of herein have taken place within the jurisdiction of the United States District Court for the Middle District of Pennsylvania and involve Defendant who Reside within the jurisdictional limits. Venue is accordingly invoked pursuant to the dictates of 28 U.S.C. 13391(b) and (c).

IV, PARTIES

6. The Plaintiff, Amber Zvolensky is an adult individual residing at 2113 Dorothy Street in Scranton, PA 18504.
7. The Defendant the City of Scranton is a municipality of the third class located at 300 Washington Avenue, Scranton, PA.
8. The Defendant, Scranton Police Department is a department under the City of Scranton, which is responsible for the enforcement of laws within the Commonwealth

9. The Defendant, Justin Butler, at all relevant times is a corporal with the Scranton Police Department.
10. On February 17, 2022, Plaintiff Amber Zvolensky was at 2132 Dorothy Street along with her children for a visit and did not live there at the time.
11. On the said date, the Plaintiff and her husband were trying to start their vehicle in the driveway also at that time Kayden Zvolensky age 2 was sitting on the porch.
12. As Mr. Zvolensky started the car unbeknownst to him that Plaintiff Kayden had gotten off the porch and went behind the vehicle and was struck by the vehicle when Mr. Zvolensky moved the vehicle.(Plaintiff moved her vehicle first then he moved his so Plaintiff could pull back in.)
13. As a result of being struck by the car Kayden tragically died a few hours later.
14. The Scranton Police Department arrived on the scene and followed the Plaintiff and Mark Zvolensky to the hospital where their minor child was being treated before Kayden had passed.
15. Subsequently, the Scranton Police were informed that Mark Zvolensky was using illegal drugs and so the Scranton Police requested a urine sample. On February 18, 2022, Mark Zvolensky was arrested for furnishing drug free urine and Obstruction of Administration of Law.
16. On May 10, 2022, CYS closed the case/investigation into Kayden's death and there was no need for further involvement by the Office of Youth & Family Services.(See attached Ex.#1).
17. On June 22, 2022, the Plaintiff was arrested for recklessly endangering the welfare of a

child, the basis was identified as not having a fence around the yard. Also, on June 22, 2022, Mark Zvolensky was arrested for killing his minor child.(See attached criminal complaint.Ex.#2)

18. The Plaintiff believes and therefore avers that she was arrested to force Mark Zvolensky to plead guilty to his charges without any probable cause to make a arrest.
19. A Preliminary Hearing on Plaintiff's charges was scheduled for July 6, 2022, but was rescheduled until July 19, 2022, at the request of Plaintiffs' counsel.
20. A Preliminary Hearing was then scheduled for July 19, 2022, but then was continued until November 1, 2022, the reason was to keep pressure on Mark Zvolensky to finish his treatment.
21. In July 2022, the Plaintiff was advised that the Scranton Police Department would withdraw the criminal charges against the Plaintiff if husband plead guilty to the charges of killing his minor child.
22. In September of 2022, the Plaintiff was listed as a perpetrator of child abuse with the PA Childline and Abuse Registry as a result of the arrest by the Scranton Police Department.
23. At the Plaintiff's next preliminary hearing, she was advised that the charges from the Scranton Police Department would be dismissed once Mark Zvolensky not only plead guilty but was sentenced.
24. At that time, the Plaintiff requested a preliminary hearing to have the charges dismissed, the Scranton Police Department and Lackawanna County District Attorneys Office objected and asked for a continuance, it is therefore believed that the Scranton Police and Lackawanna County DA's Office conspired and agreed not to dismiss the charges that had

no probable cause.

25. On October 17, 2022, once again despite being listed as a perpetrator of child abuse with PA Childline and Abuse Registry, she was released from any involvement with the Office of Youth & Family Services(See attached Ex. # 3 & 4).
26. The Preliminary Hearing again was rescheduled from December 21, 2022 to March 21, 2023, and yet again the Plaintiff was told the charges would be dismissed once Mark Zvolensky was sentenced.
27. The Plaintiffs' Preliminary Hearing was then rescheduled to April 25, 2023.
28. On April 26, 2023, Mark Zvolensky was sentenced by the Honorable Judge Geroulo.
29. On April 25, 2023, the charges were dismissed against the Plaintiff at the Preliminary Hearing by Scranton Police Dept. and Lackawanna County District Attorney's Office.
30. The Plaintiff suffered extreme trauma, emotional stress, and depression from the loss of her child Kayden and this extreme loss of life of her child was amplified, aggravated and made life unbearable when she was arrested by the Scranton Police Dept. for not having a fence at the property that she did not own.
31. Furthermore, the Plaintiff was subjected to numerous harassment measures by Children and Youth Services as a result of the arrest.
32. Further, the Plaintiff was subjected to Probation and Probation Hearing as a result of the arrest with the possibility of loss of liberty and possible jail time.
33. All during this time the Plaintiff was fully compliant with her probation.
34. Defendants knew there was no probable cause to arrest Plaintiff for failure to have a fence on a property and at all times resisted a preliminary hearing.

35. At all relevant times the Plaintiff suffered extreme, emotional distress, embarrassment, and humiliation as a result of these charges.

COUNT 1

PLAINTIFF V. ALL DEFENDANTS

MALICIOUS PROSECUTION Under 42 U.S.C. 1983

36. Plaintiff incorporates by reference herein as though recited verbatim at length the allegations of the preceding paragraphs.
37. Defendants instituted criminal proceedings against Plaintiff without probable cause and with malice, in violation of Plaintiff's constitutional rights.
38. The criminal proceedings were terminated in favor of Plaintiff.
39. Defendants knew that the criminal charges against Plaintiff were unwarranted and lacked probable cause.
40. As a direct and proximate result of the actions of Defendants, Plaintiff was falsely held against her will, expended monies including attorney's fees in defense of the criminal charges against her, suffered irreparable harm to her reputation and listed to this day as a child predator.
41. Plaintiff was also deprived of her liberty.
42. The above actions of the Defendants were a result of the policies, practices and/or

customs of the Scranton Police Department and Justin Butler.

43. The actions of Defendant aforesaid constitute malicious prosecution, in violation of Plaintiffs' Fourth, Fifth and Fourteenth Amendment rights.

WHEREFORE, the Plaintiff, Amber Zvolensky, respectfully requests this Honorable Court:

- a. Enter a declaratory judgment that Defendant's acts complained herein violated the rights of Plaintiff.
- b. Award Plaintiff compensatory damages including but not limited to; pain, suffering, past economic loss, future economic loss, back pay, front pay, loss of life's pleasures, loss of reputation, benefits, emotional distress and other damages.
- c. Award reasonable costs and attorneys' fees;
- d. Award punitive damages; and

COUNT II

PLAINTIFF V ALL DEFENDANTS

MALICIOUS USE AND ABUSE OF PROCESS Under 42 U.S.C. 1983

44. Plaintiff incorporates by reference herein as though recited verbatim at length the allegations of the preceding paragraphs.
45. Defendants continued to falsely testify against Plaintiffs at the criminal trial, without probable cause and with malice, in violation of Plaintiffs' constitutional right.

46. Defendants knew that the criminal charges against Plaintiff were unwarranted and that their testimony was false.
47. As a direct and proximate result of the actions of Defendants, Plaintiff was confined against her will, expended monies including attorney's fees in defense of the criminal charges against her and suffered irreparable harm to her reputation.
48. Plaintiff was deprived of her liberty.
49. The above actions of the Defendants were as a result of the policies, practices and/or customs of the Scranton Police Department and Justin Butler.
50. The actions of the Defendants aforesaid constitute malicious use and abuse of process, in violation of Plaintiff's Fourth, Fifth and Fourteenth Amendments rights.

WHEREFORE, Plaintiff respectfully requests this Honorable Court:

- a. Enter a declaratory judgment that Defendant's acts complained of herein have violated and continue to violate the rights of the Plaintiff.
- b. Award Plaintiff compensatory damages including but not limited to pain, suffering, past economic loss, future economic loss, back pay, front pay, loss of life's pleasures, loss of reputation, benefits, emotional distress and other damages.
- c. Award reasonable costs and attorney's fees.
- d. Award punitive damages; Grant any other relief this Court deems just and proper under the circumstances.

Dated: October 13, 2023

Respectfully Submitted,

LAW OFFICES OF GOFFER & CIMINI

Michael R. Goffer, Esquire
Attorney for the Plaintiff

CERTIFICATE OF COMPLIANCE

I, Michael R. Goffer, Esquire, certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

10-13-2023

Dated


Michael R. Goffer, Esquire

AMBER ZVOLENSKY

Plaintiff,

vs.

CITY OF SCRANTON, SCRANTON POLICE
DEPARTMENT and JUSTIN BUTLER

Defendants

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

Docket No.:

VERIFICATION

I, Amber Zvolensky, the Plaintiff, hereby verify that I have reviewed the facts set forth in the Complaint; and that they are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsifications to authorities.


Amber Zvolensky

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VERIFICATION

I, Michael R. Goffer, Esquire, hereby verify that I am the attorney for the Defendants, in the present action; that I have reviewed the facts set forth in the foregoing document; and that they are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsifications to authorities.


Michael R. Goffer, Esquire